

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
at CHATTANOOGA

UNITED STATES OF AMERICA	)	
	)	
	)	No. 1:04-CR-197
v.	)	
	)	Judge Curtis L. Collier
	)	
SCOTT PAYNE	)	
	)	

**ORDER**

On March 13, 2006, Magistrate Judge Susan K. Lee filed a report and recommendation recommending (a) the Court accept Defendant Scott Payne's ("Defendant") plea of guilty to Count Two of the Indictment; (b) the Court adjudicate Defendant guilty of the charges set forth in Count Two of the Indictment; (c) the written plea agreement be accepted at the time of sentencing; and (d) Defendant remain in custody until sentencing in this matter (Court File No. 41). Neither party filed an objection within the given ten days. After reviewing the record, the Court accepts the magistrate judge's report and recommendation with one exception. Although the Court very well may accept the plea agreement, the Court cannot make that decision at this point. Instead, the Court will defer a decision on whether it will accept the written plea agreement until the day of sentencing.

Accordingly, the Court **ACCEPTS** and **ADOPTS IN PART** the magistrate judge's report and recommendation (Court File No. 41) pursuant to 28 U.S.C. § 636(b)(1) and **ORDERS** as follows:

- (1) Defendant's plea of guilty to Count Two of the Indictment is **ACCEPTED**;
- (2) Defendant is hereby **ADJUDGED** guilty of the charges set forth in Count Two of the

Indictment; and

(3) Defendant **SHALL REMAIN** in custody until sentencing in this matter.

The Court **DECLINES TO ACCEPT IN PART** the magistrate judge's report and recommendation (Court File No. 41) pursuant to 28 U.S.C. § 636(b)(1) with respect to the magistrate judge's recommendation the written plea agreement will be accepted at the time of sentencing. The Court **DEFERS** its decision to accept or reject the written plea agreement until sentencing.

**SO ORDERED.**

**ENTER:**

/s/  
**CURTIS L. COLLIER**  
**CHIEF UNITED STATES DISTRICT JUDGE**